

Remarks

The Examiner required Applicants to restrict the claims to either claims 1-14 or claims 15-23. Applicants elect to prosecute claims 1-14.

The Examiner objected to the drawings because reference 34 is missing from the drawings but described in the text. Applicants enclose new figures showing newly referenced electrolyte 34.

The Examiner objected to claim 11 as being a duplicate of claim 10. Applicants submit both claims limit the pore size to different numerical ranges and ask the Examiner for clarification as Applicants are at a loss as how the claims are duplicative.

All claims of Applicants' application require an electrochemical gas sensor having a first electrode on a surface, a second electrode spaced apart from the surface, and an electrolyte support placed between the surface and the second electrode, wherein the electrolyte support includes a plurality of columns.

The Examiner rejected claims 1, 2, and 5-14 under 35 USC 102 as being anticipated by Robbie et al (USP 5,866,204). In order for a claim to be properly rejected under 35 USC 102, all elements of the claim must be disclosed in Robbie. Applicants submit that Robbie does not disclose an electrolyte support placed between a surface, upon which a first electrode is placed, and a second electrode, which is spaced apart from the surface. Robbie also does not disclose the invention being limited to an electrochemical gas sensor. All claims of Applicants' application require an electrolyte support placed between a surface, upon which a first electrode is placed, and a second electrode, which is spaced apart from the surface, and limiting the invention to an electrochemical gas sensor.

Applicants respectfully submit that an electrolyte support between a pair of electrodes limited to in an electrochemical gas sensor is not merely an intended use because a sensor is a combination of electrodes, electrolyte, electrical contacts, and chemical compounds, all of which are in communication with one another and arranged in a particular order so as to permit gas detection and quantification based on chemical and electrical reactions. Such an apparatus is not disclosed, taught, or suggested by Robbie. Applicants' claimed invention is not merely a particular use of Robbie's invention but is a completely new apparatus encompassing structural elements not contemplated by Robbie. Because Robbie does not disclose all elements claimed in Applicants' claim 1, the rejections with respect to Robbie should be withdrawn.

The Examiner rejected claims 1-5 and 7-14 under 35 U.S.C. 102(b) as being anticipated by Kieseles, et al (USP 5,281,324). Applicants submit that Kieseles does not disclose an electrolyte support placed between a surface, upon which a first electrode is placed, and a second electrode, which is spaced apart from the surface, and where the electrolyte support is a plurality of columns.

Kieseles's body 1 is a housing in the shape of a block (see figure 6) and is not disclosed to be a plurality of columns, as claimed by Applicants. Moreover, Kieseles's body 1, which the Examiner equated to being an electrolyte support, is not even an electrolyte support for facilitating containment of electrolyte, as defined in Applicants' application. Applicants' electrolyte support is for absorbing electrolyte so that electrolyte is inhibited from running off substrate. See paragraphs 44-45 of Applicants' specification. Body 1 is merely a cavity for positioning coating 7. The cavity holds electrolyte by the mere geometry of the cavity and not because it is acting as an absorbent material for facilitating run off. Kieseles's electrolyte cannot run off of a substrate since there is no

substrate where electrolyte is placed. Hence, Kiesele does not disclose Applicants' claimed electrolyte support and all claims rejected with respect to Kiesele should be withdrawn.

The Examiner also rejected claims 1, 2, and 5-14 under 35 U.S.C. 103(a) as being obvious over Robbie and claims 1-5 and 7-14 as being obvious over Kiesele in view of USP 6,129,824 to Rollick ("Rollick").

Applicants submit that Robbie does not render Applicants' invention obvious because Robbie does not teach or suggest an electrolyte support placed between a surface, upon which a first electrode is placed, and a second electrode, which is spaced apart from the surface. Robbie also does not disclose the invention being limited to an electrochemical gas sensor. Such structural elements are not taught or suggested in Robbie because Robbie makes no mention of an electrochemical gas sensor or incorporating the electrolyte support into one. Without some teaching or suggestion in Robbie, one skilled in the art lacks the necessary motivation to modify Robbie to include such limitations.

In order for a reference to be properly modified under 35 USC 103, there must be some teaching or suggestion to make the suggested modifications. Hence, if the suggested reference fails to show all elements of Applicants' claimed invention, namely the electrolyte support being placed between a surface, upon which a first electrode is placed, and a second electrode, which is spaced apart from the surface, there must be some teaching or suggestion in the reference to modify the invention to include such limitations. Because there is no such teaching or suggestion, the modification to Robbie to include such limitations is improper. Therefore, the rejections with respect to Robbie should be withdrawn.

Similarly, with respect to the combination of Kieseles and Rollick, there must be some teaching or suggestion in the references in order for the combination to be properly made under 35 USC 103. Applicants submit there is no teaching or suggestion to combine Kieseles, a reference lacking Applicants' claimed electrolyte support being a plurality of columns, and Rollick, a reference also lacking Applicants' electrolyte support being a plurality of columns, to arrive at Applicants' claimed invention which requires an electrolyte support comprising a plurality of columns.

Furthermore, even if there was some motivation for one skilled in the art to combine Kieseles and Rollick, no matter how improper, the resulting combination would still not arrive at Applicants' claimed electrolyte support comprising a plurality of columns absent some modification. In order for references to be modified in a rejection under 35 USC 103, there must be some teaching or suggestion to make the suggested modification. Hence, if the suggested combination fails to show all elements of Applicants' claimed invention, namely the electrolyte support being a plurality of columns, there must be some teaching or suggestion in the references to modify the electrolyte support to include a plurality of columns. Because there is no such teaching or suggestion in either reference, because neither reference relates to an electrolyte

support comprising a plurality of columns, such a modification would be improper.
Therefore, the rejections with respect to these references should be withdrawn.

Respectfully submitted,



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